

113
1/29/03
rf

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

BARBARA WILHELM, :
Plaintiff :
v. : 01-CV-1057
COMMONWEALTH OF PA, et al., :
Defendants :

FILED
HARRISBURG, PA

JAN 28 2003

MARY E. ANDREA, CLERK
Per [Signature] Deputy Clerk

TRANSCRIPT OF PROCEEDINGS

JURY TRIAL

TESTIMONY OF WILLIAM HORGAS

BEFORE: HON. SYLVIA H. RAMBO, Judge

DATE: September 11, 2002

PLACE: Courtroom Number Three
Federal Building
Harrisburg, Pennsylvania

COUNSEL PRESENT:
NATHAN C. PRINGLE, JR., Esquire
For - Plaintiff

SUSAN J. FORNEY, Esquire
For - Defendant

Vicki L. Fox, RMR
Official Reporter

I N D E XDirect Cross Redirect RecrossDefendant's Witnesses

8. William Horgas
 By Ms. Forney
 By Mr. Pringle

3 -- -- --
-- 10 -- --

1 MS. FORNEY: The defendants call William Horgas.

2

3 WILLIAM HORGAS, called as a witness, being duly
4 sworn, testified as follows:

5

6 THE CLERK: Would you state your name, please?

7 A William A. Horgas.

8 THE CLERK: Thank you.

9

DIRECT EXAMINATION

10 BY MS. FORNEY:

11 Q Are you currently employed, sir?

12 A Yes.

13 Q Would you tell me what your job is, please?

14 A I am a Lieutenant with the Pennsylvania State Police,
15 and I am currently the Section Commander for the Central
16 Section of Systems and Process Review.

17 Q Could you briefly explain what your responsibilities
18 are in the Systems Process Review?

19 A Yes. Systems and Process Review, we fall under the
20 Bureau of Professional Responsibility. And our job, we go
21 around to all the Departments of the Pennsylvania State
22 Police installations, and we do reviews or inspections.

23 We look for compliance with rules and regulations,
24 things that may be doing wrong and things they may be doing
25 correctly. And we perhaps even make suggestions to our

1 Commissioner through executive summaries on the different
2 things we see.

3 Q Does the Systems Process and Review Division have any
4 responsibility for initiating or conducting internal
5 investigations?

6 A No.

7 Q If matters come to your attention that might warrant an
8 internal investigation, how do you handle that?

9 A If we are doing a review and something comes to our
10 attention, we will go to the Commanding Officer of that
11 particular State Police installation, location.

12 If it is a station, we will go to the Station
13 Commander and bring it to the Station Commander's attention.

14 If it is a Troop headquarters, we will go to the
15 Captain in charge of that Troop and bring it to his
16 attention. If it is a Bureau, we will give it to a Bureau
17 Director. We have never had anything where there was a
18 Station Commander. In that case, we would probably give it
19 to a Troop Commander who is above that individual. We do not
20 initiate them ourselves.

21 Q I would like to direct your attention to September of
22 1999. Were you involved in doing a review of the Legislative
23 Affairs Office at that time?

24 A Yes. At that time, I believe it was called the
25 Legislative Liaison Office. I think it was changed shortly

1 thereafter, somewhere abouts there. It used to be the
2 Legislative Liaison Office, but yes, that's correct.

3 Q Was there any particular focus that your review had
4 when you conducted it?

5 A No. What we used because we had never reviewed that
6 location before -- it's not a Bureau. It is not a station.
7 It is not a Troop headquarters. It is an office. We never
8 reviewed per se offices before.

9 But what we used was a Troop headquarters staff
10 guide sheet. And what we looked primarily was the staff
11 function. We would check directives, our special orders,
12 memorandums, things of that nature, filing, library, just the
13 staff related function.

14 Q Did you conduct any other reviews around the same time
15 that you were reviewing the Legislative Affairs Office?

16 A Yes. At that time, we also reviewed the EEO, Equal
17 Employment Opportunity Officer, for our Department, the MAP,
18 Member's Assistance Program Office for our Department and
19 also the PICS, which is our Pennsylvania Instant Check System
20 which came in a year or so prior to our reviewing it. That
21 is the reason we reviewed that function also. They do the
22 instant checks for anyone buying firearms in Pennsylvania.

23 Q Had any of the units that you just mentioned been
24 reviewed before?

25 A No.

1 Q During the course of your review, did any member of
2 your team report to you that an employee within the
3 Legislative Affairs Office had complained about
4 discrimination to them?

5 MR. PRINGLE: Objection. That is hearsay.

6 MS. FORNEY: Your Honor, I believe the question in
7 this case is -- at least one of the questions is who was
8 aware of complaints and did they take action on it.

9 I think it is relevant to know whether this
10 information was passed on.

11 THE COURT: You can certainly ask him in another
12 way were you aware of any complaints.

13 MS. FORNEY: I will do that. Thank you.

14 BY MS. FORNEY:

15 Q Were you aware of any complaints of discrimination made
16 by members of the Office of Legislative Affairs?

17 A No.

18 Q Were you present at a meeting that was requested by Ms.
19 Wilhelm along with Major Morris?

20 A Yes.

21 Q And what was your understanding of the purpose of the
22 meeting?

23 A The purpose of the meeting I took it was to -- a
24 complaint about Captain Simmers. I was given an envelope
25 during the review by Barb Wilhelm seated here today. It

1 requested a meeting with Major Morris and myself and Ms.
2 Wilhelm.

3 I sent -- Major Morris at the time, I believe I
4 sent him an e-mail, or I left a message on his voice mail
5 about the meeting, to schedule it. He e-mailed me back that
6 he knew nothing about it. I was told earlier when I was
7 given the letter that he was aware of this.

8 Q Did you hold the meeting?

9 A Yes, we did hold the meeting.

10 Q Going into that meeting, you said your understanding
11 was it to was to complain about Captain Simmers?

12 A I retract that. Going into it, I wasn't sure what the
13 meeting was going to be about.

14 Q At the meeting --

15 A Yes.

16 Q -- what did it turn out to be about?

17 A The meeting was held on Monday the 20th of September I
18 guess 1999. It was in Major Morris's office. The issues
19 were I believe it started out with a recent classification
20 that was done I think for Ms. Wilhelm.

21 And I think Stan Burkholder's name came up. He is
22 in our Bureau of Personnel which is now our Bureau of Human
23 Resources. I think he is responsible for doing all the
24 reclassifications.

25 I know also we discussed the Legislative Affairs

1 or Legislative Liaison's duties at that time because we
2 gathered names of different individuals to call to check on
3 the work product or the quality of work that was being done
4 by the Office.

5 I know that Ms. Wilhelm at that time mentioned
6 that Captain Simmers was incompetent, shirked his duties,
7 when he was Acting Major gave duties to Ms. Wilhelm to
8 perform rather than do them himself.

9 Q Is there anything else you can recall that was
10 discussed in that meeting?

11 A I can't recall any.

12 Q Do you recall Ms. Wilhelm saying anything to the effect
13 that she was being discriminated against because she was a
14 woman?

15 A No.

16 Q You don't recall her saying the men in her office were
17 being given preferential treatment because they were men?

18 A No.

19 Q You don't recall her referring to gender, to sex,
20 anything like that during the course of the meeting?

21 A No.

22 Q Did you take any action at the conclusion of the
23 meeting?

24 A At the conclusion of the meeting, I believe I told
25 Major Morris that we do not conduct Internal Affairs

1 investigations. As I stated earlier, that is not our
2 purpose.

3 Whether I told him if there is anything there that
4 he thinks should be an Internal Affairs investigation he
5 should initiate or not, I don't remember telling him that.

6 However, I do remember telling him that Garret
7 Rain, Sergeant Garret Rain now -- I think he was a Corporal
8 at the time of this review -- was already conducting an
9 Internal Affairs investigation on it. To talk to Garret
10 Rain.

11 Q Did you speak to Corporal Rain at all?

12 A Yes. After the meeting, I spoke to Corporal Rain and
13 apprised him of what had been mentioned at the meeting.

14 Q Do you recall whether at the meeting you mentioned that
15 your Division does not do internal investigations?

16 A At the meeting?

17 Q Yes.

18 A Yes. At the conclusion of the meeting. And I told
19 Major Morris in his office.

20 Q Was Ms. Wilhelm present?

21 A Yes, I believe she would have been in there, yes.

22 MS. FORNEY: No further questions, Your Honor.

23 THE COURT: Cross-examine.

24 MR. PRINGLE: Yes, Your Honor.

25

Horgas - Cross

CROSS EXAMINATION

1

2

BY MR. PRINGLE:

3

Q Do you remember any discussions at that meeting in which Ms. Wilhelm expressed that she felt she was doing all the clerical work in the office for everyone else?

4

5

6

A That she was doing all the clerical work?

7

Q Yes.

8

A She did mention doing -- the Captain shirking his duties, and she had to do filing. She did also mention -- you are jogging my memory here.

10

11

Q Answer my question. Did she make a claim that she didn't think it was fair that she had to do all of the filing?

12

13

14

A I don't remember that specifically, no.

15

Q You did mention filing. So she did mention filing at the meeting?

16

17

A Yes.

18

Q In what context did she mention filing?

19

A That the Captain has a bad back, and sometimes he cannot reach down to the lower filing cabinets to put files in. She'll have to put files in those locations.

20

21

22

Q Did she say she didn't think that was fair or she thought it was okay that she handled it for the Captain?

23

24

A I don't remember anything like that, no.

25

Q That was a question to you. My question was: Did she

Horgas - Cross

1 say the fact she had to do the filing for the Captain was
2 okay with her, or did she say I have a problem with doing the
3 filing for the Captain?

4 A Well, she brought it up. I guess she didn't like
5 having to do the filing.

6 Q Okay. How much did she talk about the fact that she
7 didn't like doing the filing?

8 A Couldn't have been much at all.

9 Q Couldn't have been much?

10 A No.

11 Q It wasn't really a big deal to her, is that what you
12 are saying?

13 A I can't say it wasn't. I don't know how she felt. I
14 can't say whether it was a big deal to her.

15 Q Your perception of how she was presenting it to you --

16 THE COURT: One at a time.

17 A It was in the same context as everything else that was
18 mentioned during this meeting.

19 BY MR. PRINGLE:

20 Q I am not understanding your answer. When she said to
21 you I'm doing the filing, and according to you she said I
22 don't like doing the filing, are you saying that she really
23 didn't make a big deal out of it?

24 A No.

25 Q What are you saying about it?

Horgas - Cross

1 A I am saying it was said in the context of everything
2 else during the meeting. The other items she brought up
3 during the meeting, it was in the same context as that.

4 Q Meaning she brought it up during the meeting?

5 A Yes.

6 Q You don't remember what she said about it?

7 A I do recall her mentioning that Captain Simmers had
8 back problems. He cannot reach to the lower cabinets
9 sometimes. He sometimes cannot get down to the lower drawers
10 on the filing cabinets to file particular reports.

11 Q Did she indicate to you that she thought it was okay
12 that she helped out Captain Simmers?

13 A I don't recall.

14 Q You don't remember whether she was complaining about
15 filing or not?

16 A I would say she was complaining. Like I said, that was
17 -- after we got out of there, it seemed to be the purpose of
18 the meeting. She was talking of the Captain's incompetence.

19 Q I'm still on the filing. After listening to Barbara
20 Wilhelm, you did conclude that she was complaining about the
21 fact that she had to do the filing?

22 A Yes.

23 Q After listening to her, did you remember her
24 complaining about unearned compensatory time?

25 A Unearned compensatory?

Horgas - Cross

1 Q Unearned compensatory time.

2 A For?

3 Q For Captain Simmers and Ronald Plesco.

4 A No.

5 Q You don't remember any discussion about that?

6 A No.

7 Q Are you saying it didn't happen, or you don't remember?

8 A I don't remember any conversation relative to
9 compensatory time.

10 Q Okay. Do you remember her talking about abuse of work
11 hours?

12 A Yes.

13 Q You do remember that?

14 A Yes.

15 Q What was the context of that discussion?

16 A I believe it was about the same time that she talked
17 about the Captain's back. She said when Captain Simmers is
18 Acting Major, he works out in the workout room, which is
19 their Departmental Headquarters. And that he sometimes would
20 go past a certain length of time, an hour or whatever, he
21 would be down there working out.

22 Q Was she also saying that she didn't think it was fair
23 that he would take extra time and she couldn't?

24 A I didn't hear her say that, no.

25 Q So you understood her to be -- she thought it was okay

Horgas - Cross

1 that he took the extra time?

2 A No. I took it that she disagreed with him taking the
3 extra time.

4 Q So she was not happy that he took the extra time?

5 A That's correct. I took it she was not happy that he
6 may be taking extra time to workout. But as I mentioned
7 earlier, I can't say that she was angry with that because
8 she's not getting extra time.

9 Q Did she mention anything about the fact that he didn't
10 submit leave slips -- either him or Ronald Plesco?

11 A I don't remember at that meeting that coming up, no.

12 Q Do you remember her bringing up the fact that he
13 shifted some of his responsibilities to her?

14 A Yes.

15 Q What was discussed on those issues?

16 A Just that whenever Captain Simmers was Acting Major, he
17 shirked his responsibilities on to Ms. Wilhelm. What
18 responsibilities those were, answering phones perhaps. I do
19 believe she said answering phone. When the Captain is away,
20 that gives her more work answering the telephone.

21 Q Do you remember her talking about a hostile or
22 harassing work environment?

23 A No.

24 Q She clearly didn't bring that up?

25 A No.

Horgas - Cross

1 Q Is that definite?

2 A That's definite.

3 Q How long did you have the memo? She sent you a
4 memorandum with what you talked about?

5 A Yes, it was a memorandum or a letter.

6 Q How long did you have it?

7 A Offhand, I am guessing. We started to review on the
8 13th of September I believe. She either gave that to me on
9 the 13th or the 14th. I am not real sure on that, but it was
10 somewhere in that time span.

11 Q Did you read the letter when you got it?

12 A Yes.

13 Q Did you read the entire letter?

14 A Yes.

15 MR. PRINGLE: May I approach the witness? I am
16 sorry. I don't need to approach the witness.

17 BY MR. PRINGLE:

18 Q Somewhere up there, you should have Plaintiff Exhibit
19 36. Tell me when you find it.

20 A I have it.

21 Q You just testified that you definitely did not address
22 the issues of hostile or harassing work environment. Will
23 you read the last line of paragraph three? I am sorry. Read
24 the first line of paragraph three.

25 A The matters include, but are not limited to the

Horgas - Cross

1 following: Gross incompetence.

2 Q Excuse me. Now read the last line of paragraph three.

3 A And creating a hostile, harassing work environment.

4 Q But you are saying definitely, they did not discuss
5 this?

6 A That was not discussed at the meeting.

7 Q And on the third line, would you read the first phrase
8 there? It says there -- I will read it for you -- use of
9 unearned compensatory time. You are saying that compensatory
10 time was not discussed at this meeting either?

11 A No.

12 Q What did you do with this memo after you left this
13 meeting?

14 A I showed it to my Captain and my supervisor.

15 Q Who was he?

16 A Captain Charles Ferkes. I also showed it to Garret
17 Rain, Corporal Garret Rain at that time. And then whenever I
18 finally got ahold of the Major Morris, we set up the date for
19 the meeting.

20 Q I am sorry. After the meeting is what I am talking
21 about. After the meeting, what did you do with the memo?

22 A The memo?

23 Q Yes.

24 A I had already placed it with my file. Also, I gave a
25 copy to my Captain, along with the e-mail from Major Morris

Horgas - Cross

1 and a letter that I had typed. And what my Captain did with
2 that, I don't know.

3 Q Did you have any communications with at that time Major
4 Hawthorne Conley?

5 A No.

6 Q Did you know whether or not Major Hawthorne Conley got
7 a copy of this memorandum?

8 A I don't know whether he did or not.

9 Q I guess you don't know whether Lieutenant Colonel Coury
10 received a copy of this?

11 A I don't know.

12 Q By the way, who conducted this meeting? How was it
13 conducted?

14 A It was in Major Morris's office. Major Morris was
15 behind his desk. Ms. Wilhelm was I believe off to one of the
16 sides. I was sort of in front of the Major I believe. And
17 Sergeant Janice McNeal from our review team was also in the
18 meeting. She was off to the other side I believe. I think
19 that is how we were set up in the room.

20 The Major remained behind his desk. It wasn't at
21 a table where everyone was at the table. He was behind his
22 desk. We were in his office.

23 Q What did you do, go down the items in the various
24 paragraphs?

25 A No. I don't even think I had this letter with me. Ms.

Horgas - Cross

1 Wilhelm requested the meeting so we showed up for the
2 meeting.

3 Q They went down the items on this list?

4 A I don't believe this letter was even in the room.

5 Q You're not saying it wasn't in the room; are you?

6 A I am not saying that. I said I don't believe this
7 letter was in the room. It could have been in the room. I
8 didn't see the letter in the room.

9 MR. PRINGLE: No further questions.

10 THE COURT: Redirect?

11 MS. FORNEY: No, Your Honor.

12 THE COURT: You may step down.

13 (Whereupon, the portion of the transcript
14 requested to be transcribed was concluded.)
15
16
17
18
19
20
21
22
23
24
25

1 I hereby certify that the proceedings and evidence
2 are contained fully and accurately in the notes taken by me
3 on the trial of the above cause, and that this copy is a
4 correct transcript of the same.

5
6 Vicki L. Fox, RMR

7 Vicki L. Fox, RMR

8 Official Reporter
9

10 The foregoing certification of this transcript
11 does not apply to any reproduction by any means unless under
12 the direct control and/or supervision of the certifying
13 reporter.
14
15
16
17
18
19
20
21
22
23
24
25